

# Army FOIA/Privacy/Records Management Course

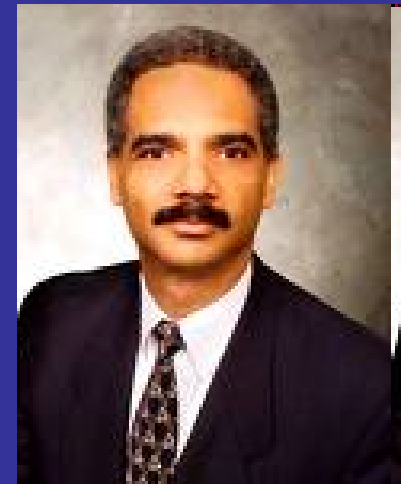
## FOIA Overview: Basic FOIA Procedures

# Freedom of Information Act

Statutory right of access to agency records enforceable in court

President Obama instructs that “a presumption of openness should be applied to all decisions involving FOIA”

Attorney General Holder urges discretionary release when there is no reasonably foreseeable harm



# Freedom of Information Act

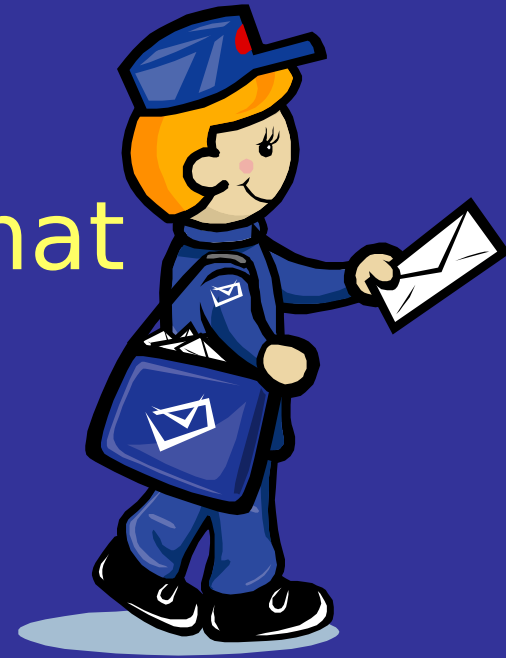
## Three types of disclosure

- Automatically published in the Federal Register: agency organization, functions, etc.
- Automatically put on agency internet “reading room”: final opinions, policy, staff manuals, frequently requested records
- Disclosure by request

# Freedom of Information Act

## Elements of a FOIA request

- In writing
- Addressed to agency FOIA office
- Reasonably describes records
- Addresses issue of fees
- May state preferred format



# Freedom of Information Act

Creation of a Record Not Required



# Freedom of Information Act

## Time Limits

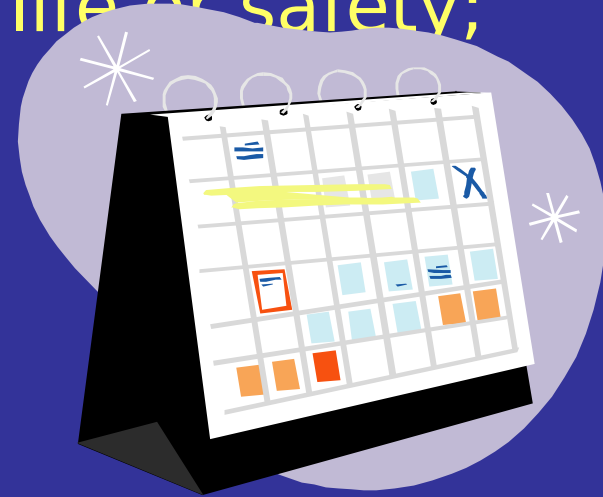
Generally 20 working days to make a determination on disclosure

10 day extension for “unusual circumstances”

If requested, 10 days to make a decision on whether to expedite; if expedited, make determination as soon thereafter as practicable

Reasons for expedition: threat to life or safety; media, if there is urgency

Possible fee penalties for late responses



# Freedom of Information Act

## Fees

Commercial – review, search, and duplication

Scientific, Academic, Media – duplication only

All Other – search and duplication only



# Freedom of Information Act

## Fee Waivers

A fee waiver is required “if disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest of the requester.”





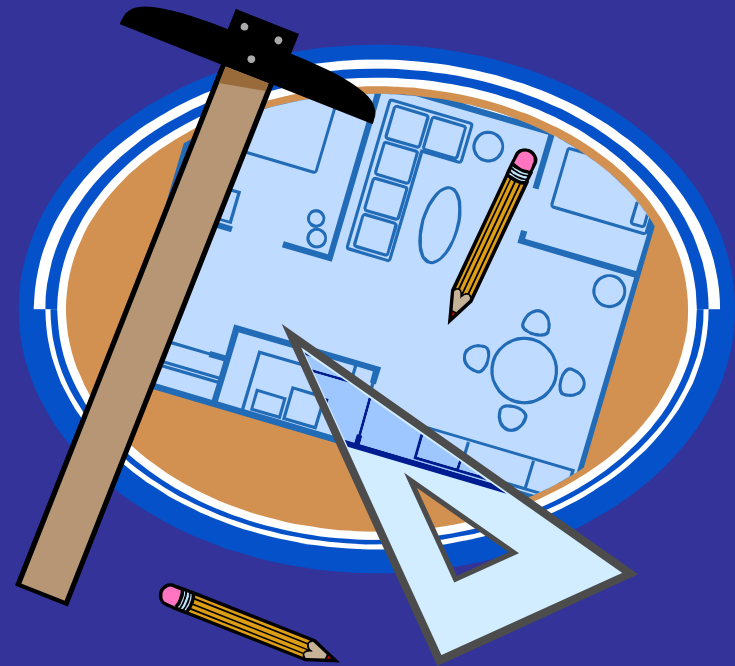
# Freedom of Information Act

Exemption 1: “ (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order”



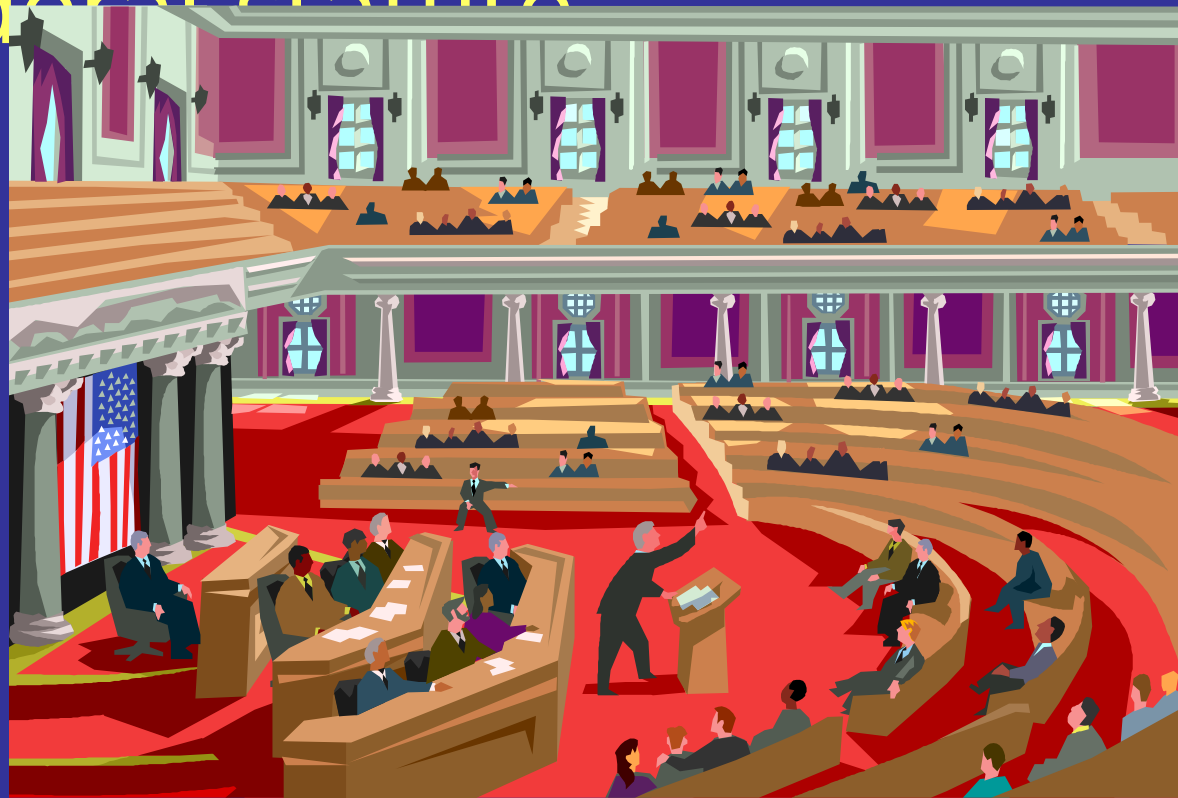
# Freedom of Information Act

Exemption 2: “related solely to the internal personnel rules and practices of an agency”



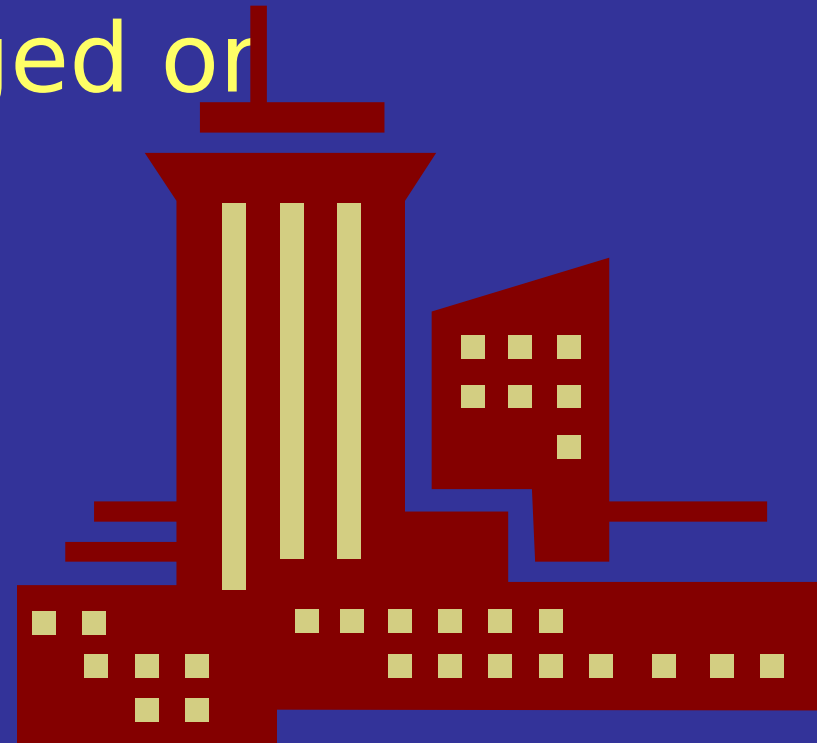
# Freedom of Information Act

Exemption 3: permitted or required to be withheld by another federal statute



# Freedom of Information Act

Exemption 4: “trade secrets and commercial or financial information obtained from a person and privileged or confidential”



# Freedom of Information Act

Exemption 5: “inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency”



# Freedom of Information Act

Exemption 6: “personnel and medical files and similar files the disclosure of which would cause a clearly unwarranted invasion of personal privacy”



# Freedom of Information Act

Exemption 7(A): “records or information compiled for law enforcement purposes . . . to the extent that [their] production . . . could reasonably be expected to interfere with enforcement proceedings”



# Freedom of Information Act

Exemption 7(B): “records or information compiled for law enforcement purposes . . . to the extent that [their] production . . . would deprive a person of a right to a fair trial or impartial adjudication”



# Freedom of Information Act

Exemption 7(C): “records or information compiled for law enforcement purposes . . . to the extent that [their] production . . . could reasonably be expected to constitute an unwarranted invasion of personal



# Freedom of Information Act

Exemption 7(D): law enforcement information that could reasonably be expected to identify a confidential source or in a criminal or national security file, any information provided by the confidential source



# Freedom of Information Act

Exemption 7(E): law enforcement information that would reveal law enforcement techniques or procedures



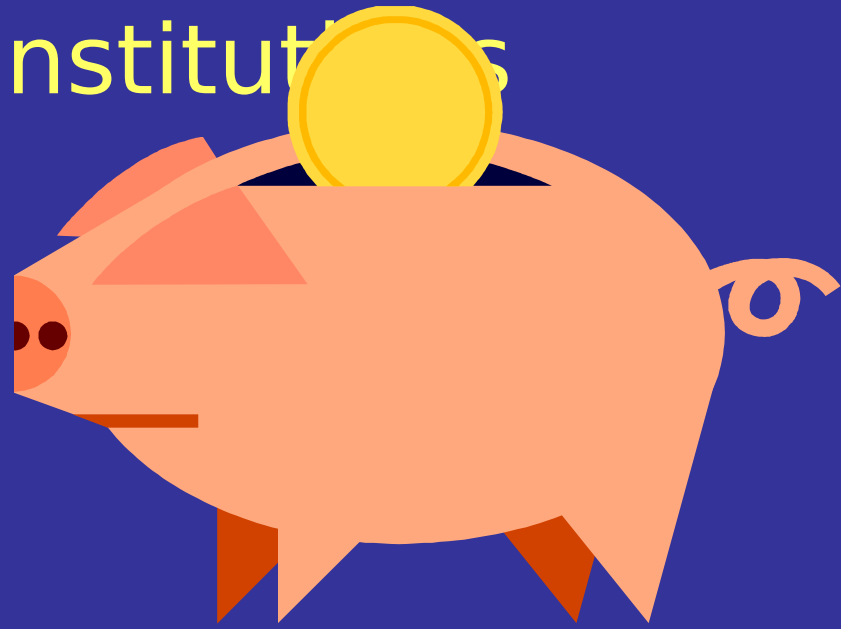
# Freedom of Information Act

Exemption 7(F): “records or information compiled for law enforcement purposes . . . to the extent that [their] production . . . could reasonably be expected to endanger the life or personal safety of any individual”



# Freedom of Information Act

Exemption 8: related to examination, operation, or condition reports prepared by agencies that supervise or regulate financial institutions



# Freedom of Information Act

Exemption 9: geological and geophysical information and data concerning wells

